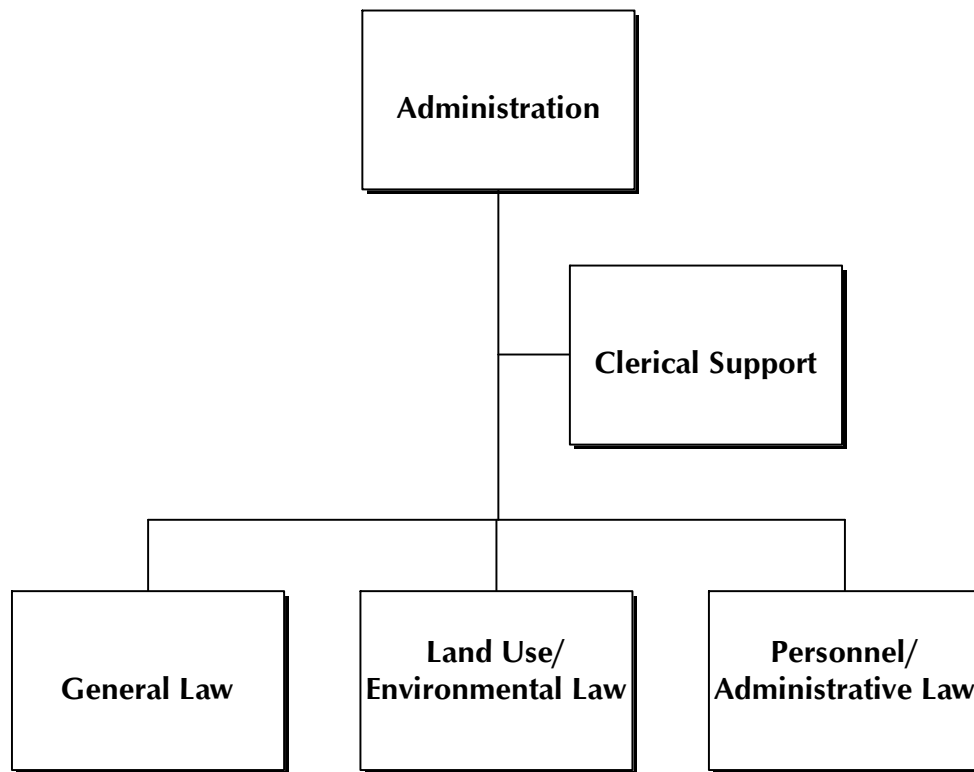


Office of the County Attorney



Mission

To provide the best possible legal counsel and representation to County officials and agencies in support of their mission to protect and enhance the community.

Focus

The Office is divided into three sections: the General Law section, the Land Use/Environmental Law section, and the Personnel/Administrative Law section. The General Law section prosecutes as civil matters delinquent tax claims, defends erroneous tax assessment lawsuits, advises County departments on highly complex financial matters and bond issues, including the formation of special tax and transportation improvement districts, interacts with the Virginia General Assembly on proposed legislation, drafts proposed County ordinances, reviews County contracts, and issues opinions to the governing body and the County Government on all manner of subjects. The recent downturn in the economy will likely increase delinquencies and bankruptcies, thereby requiring broadened and intensified collection and litigation efforts. In addition, high office vacancy rates often cause owners to claim that their real estate tax assessments, which typically lag the market, are erroneously high. When those claims are not resolved administratively, litigation against the County often ensues.

THINKING STRATEGICALLY

Strategic issues for the Department include:



- Processing to a favorable conclusion claims against the County;
- Processing cases involving the abuse and neglect of children and the elderly;
- Continuing commitment to promote revitalization of older neighborhoods and housing opportunities for the aging population;
- Attracting and retaining talented attorneys to work in the public sector; and
- Assuming a leadership role in facilitating transit in the Dulles corridor.

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The Land Use/Environmental Law section defends land use decisions of the Board of Supervisors and, on occasion, the Board of Zoning Appeals, drafts and enforces zoning ordinances and land development regulations, brings condemnation actions, sues defaulting developers, advises County departments on environmental issues, and reviews subdivision documents affecting County property interests. The shrinking inventory of land in the County on which development can take place increases infill development and brings with it its attendant problems. When land that was passed over earlier becomes the subject of a rezoning application, neighbors, who have come to consider the tract as perpetual green space, frequently oppose the application and will cite all of the problems that led to the property being passed over the first time. If the Board of Supervisors approves such an application, litigation challenging the decision becomes likely. In addition, new developments may have an adverse environmental impact on neighboring developments. As a result, the Land Use/Environmental Law section may be called upon to enforce environmental constraints such as the County's erosion and sediment control regulations.

The Personnel/Administrative Law section defends County personnel decisions before administrative hearings and in litigation, provides counsel to the Fairfax County Redevelopment and Housing Authority and the Park Authority, civilly prosecutes cases involving abuse and neglect of children and elders in the Juvenile and Domestic Relations Court, drafts personnel and retirement ordinances, and defends the County and its employees in tort actions. A growing population density and an aging of that population impact this section in that accidents involving County vehicles are more likely as are the filing of tort lawsuits. More people also means more instances of abuse and neglect of children and elders, the results of which currently occupy the efforts of five full-time attorneys. The aging population, many of whom will be on lower fixed incomes during their retirement years, will require the County to assist them in meeting their housing needs and will result in more work for the section in its provision of legal advice to the Redevelopment and Housing Authority.

New Initiatives and Recent Accomplishments in Support of the Fairfax County Vision

 Building Livable Spaces	Recent Success	FY 2005 Initiative	Cost Center
Continue pursuing a greater number of civil suits against zoning violators, including those brought in conjunction with the work of the Hoarding Task Force.	✓	✓	Land Use/ Environmental
Maintain increased litigation efforts to recover funds necessary to complete projects in which developers have defaulted.	✓	✓	Land Use/ Environmental
 Connecting People and Places	Recent Success	FY 2005 Initiative	Cost Center
Negotiated and drafted documents for the County's stake in the design-build contract for the construction of improvements to Route 28.	✓		General Law
Continue to work with landowners in the Dulles corridor to develop a petition to present to the Board of Supervisors for the creation of a Transportation Improvement District to fund the local share of the cost of building rail to Dulles.	✓	✓	General Law

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 Practicing Environmental Stewardship	Recent Success	FY 2005 Initiative	Cost Center
Initiated lawsuits to rectify erosion and sediment control violations by developers.	<input checked="" type="checkbox"/>		Land Use/ Environmental
Continue to prosecute civil suits in the Cinder Bed Road area to eradicate numerous zoning violations and illegal industrial uses in Resource Protection Areas.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Land Use/ Environmental
 Creating a Culture of Engagement	Recent Success	FY 2005 Initiative	Cost Center
Participated in numerous community dialogues sponsored by members of the Board of Supervisors, the Fairfax Bar Association, and the Virginia State Bar.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Agencywide
 Corporate Stewardship	Recent Success	FY 2005 Initiative	Cost Center
Continue successfully defending numerous high-dollar personal injury claims brought against the County.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Personnel/ Administrative Law
Successfully defended tax assessment cases to preserve County tax dollars and continue to prosecute tax delinquents in order to collect revenue owed to the County.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	General Law

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Budget and Staff Resources



Agency Summary				
Category	FY 2003 Actual	FY 2004 Adopted Budget Plan	FY 2004 Revised Budget Plan	FY 2005 Advertised Budget Plan
Authorized Positions/Staff Years				
Regular	64/ 64	64/ 64	64/ 64	64/ 64
Expenditures:				
Personnel Services	\$4,875,829	\$5,159,951	\$5,159,951	\$5,367,151
Operating Expenses	750,599	542,982	909,035	542,472
Capital Equipment	0	0	0	0
Subtotal	\$5,626,428	\$5,702,933	\$6,068,986	\$5,909,623
Less:				
Recovered Costs	(\$349,204)	(\$368,513)	(\$368,513)	(\$382,736)
Total Expenditures	\$5,277,224	\$5,334,420	\$5,700,473	\$5,526,887
Income:				
Legal Counsel to FCPS	\$34,057	\$35,858	\$35,858	\$35,997
County Attorney Fees	638	1,000	1,000	1,000
Litigation Proceeds	121,711	46,000	46,000	46,000
Total Income	\$156,406	\$82,858	\$82,858	\$82,997
Net Cost to the County	\$5,120,818	\$5,251,562	\$5,617,615	\$5,443,890

Position Summary		
<u>ADMINISTRATION</u>	<u>LAND USE/ ENVIRONMENTAL LAW</u>	<u>PERSONNEL/ ADMINISTRATIVE LAW</u>
1 County Attorney	1 Deputy County Attorney	1 Deputy County Attorney
2 Administrative Associates	1 Senior Assistant County Attorney	2 Senior Assistant County Attorneys
1 Network Analyst II	3 Assistant County Attorneys V	1 Assistant County Attorney VI
	6 Assistant County Attorneys IV	4 Assistant County Attorneys V
	3 Paralegal Assistants	7 Assistant County Attorneys IV
<u>CLERICAL SUPPORT</u>		2 Paralegal Assistants
11 Administrative Assistants IV	<u>GENERAL LAW</u>	
1 Administrative Assistant III	1 Deputy County Attorney	
1 Administrative Assistant I	Senior Assistant County	
	2 Attorneys	
	3 Assistant County Attorneys VI	
	1 Assistant County Attorney V	
	4 Assistant County Attorneys IV	
	5 Paralegal Assistants	
TOTAL POSITIONS		
64 Positions / 64.0 Staff Years		

FY 2005 Funding Adjustments

The following funding adjustments from the FY 2004 Revised Budget Plan are necessary to support the FY 2005 program:

- ◆ **Employee Compensation** **\$192,977**
An increase of \$207,200 in Personnel Services is associated with salary adjustments necessary to support the County's compensation program. This is partially offset an increase of \$14,223 in Recovered Costs.
- ◆ **Operating Expense Adjustments** **(\$366,563)**
A decrease of \$366,563 in Operating Expenses is due primarily to the carryover of \$366,053 for one-time expenses as part of the FY 2003 Carryover Review, and a decrease of \$510 for County mainframe charges based on prior year usage.

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Changes to FY 2004 Adopted Budget Plan

The following funding adjustments reflect all approved changes in the FY 2004 Revised Budget Plan since passage of the FY 2004 Adopted Budget Plan. Included are all adjustments made as part of the FY 2003 Carryover Review and all other approved changes through December 31, 2003:

- ◆ **Carryover Adjustments** **\$366,053**
As part of the FY 2003 Carryover Review, the Board of Supervisors approved encumbered funding of \$349,823 in Operating Expenses. In addition, an amount of \$16,230 in unencumbered carryover was approved for replacing four LaserJet printers for which FY 2003 funding could not be encumbered prior to year-end.

Key Performance Measures

Objectives

- ◆ To ensure that the civil litigation brought by or against the County of Fairfax and its constituent entities in state or federal, trial or appellate courts and administrative tribunals is consistently processed to a favorable conclusion by maintaining the percentage of lawsuits concluded favorably at 97 percent.
- ◆ To improve response time to all requests for legal opinions and advice from the Board of Supervisors, other boards, authorities or commissions, the County Executive, and County agencies by one percentage point each year from 84 to 85 percent of responses meeting timeliness standards.
- ◆ To file 90 percent of zoning enforcement suits within 40 days of the request from the Zoning Administrator.
- ◆ To maintain the recovery rate of amounts referred for collection by the Department of Tax Administration at a minimum of 63 percent.

Indicator	Prior Year Actuals			Current Estimate	Future Estimate
	FY 2001 Actual	FY 2002 Actual	FY 2003 Estimate/Actual	FY 2004	FY 2005
Output:					
Lawsuits completed	646	769	725 / 1,174	725	725
Advisory responses completed	3,357	3,634	3,600 / 3,281	3,600	3,600
Requests for zoning enforcement actions filed	33	54	46 / 51	48	48
Dollars collected for real estate	\$834,131	\$1,100,274	\$1,100,000 / \$1,535,351	\$1,100,000	\$1,100,000
Dollars collected for BPP, PP, BPOL, Other (1)	\$724,610	\$1,168,623	\$1,200,000 / \$3,759,330	\$3,000,000	\$3,000,000
Total dollars collected	\$1,558,741	\$2,268,897	\$2,300,000 / \$5,294,681	\$4,100,000	\$4,100,000
Efficiency:					
Lawsuits completed per staff	10	12	11 / 18	11	11
Responses provided per staff	53	57	56 / 51	56	56
Zoning enforcement actions filed per staff assigned	13	22	18 / 20	19	19
Salaries expended per collection amount	31%	22%	23% / 10%	13%	13%

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Indicator	Prior Year Actuals			Current Estimate	Future Estimate
	FY 2001 Actual	FY 2002 Actual	FY 2003 Estimate/Actual	FY 2004	FY 2005
Service Quality:					
Percent of lawsuits concluded favorably	97%	97%	97% / 98%	97%	97%
Percent of advisory responses meeting timeliness standards for BOS requests (14 days)	96%	94%	96% / 96%	96%	96%
Percent of advisory responses meeting timeliness standards for subdivision review (21 days)	100%	100%	95% / 99%	95%	95%
Percent of advisory responses meeting timeliness standards for legal opinion (30 days)	77%	78%	80% / 65%	80%	80%
Percent of advisory responses meeting timeliness standards for Freedom of Information Act requests (according to state law)	100%	100%	100% / 100%	100%	100%
Percent of advisory responses meeting timeliness standards for other requests (1 year)	91%	76%	80% / 80%	80%	80%
Percent of advisory responses meeting timeliness standards overall	93%	81%	82% / 84%	85%	85%
Percent of zoning enforcement requests meeting 40-day filing standard	97%	80%	90% / 100%	90%	90%
Collection rate (Total BPOL, BPP, PP, collected in current year divided by total BPOL, BPP, PP referred in previous year)	52%	71%	63% / 85%	63%	63%
Outcome:					
Percentage point change of lawsuits concluded favorably during the fiscal year	0	0	0 / 1	0	0
Percentage point change of responses meeting timeliness standards	1	(12)	1 / 3	1	1
Percentage point change in zoning enforcement requests meeting 40-day filing standard	(3)	(17)	10 / 20	(10)	0
Percentage point change in recovery of amounts referred for collection	(17)	19	(8) / 14	(22)	0

(1) BPP = Business Personal Property Tax; PP = Personal Property Tax; BPOL = Business, Professional and Occupational License Tax.

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Performance Measurement Results

In FY 2003, 98 percent of lawsuits brought by or against the County were concluded favorably, thereby exceeding the objective of 97 percent. The Office of the County Attorney anticipates a continued high percentage of favorably concluded lawsuits in fiscal years 2004 and 2005.

In FY 2003, the Land Use section met the 40-day filing standard for zoning enforcement suits 100 percent of the time, thereby exceeding the agency target of 90 percent. Although the Office hopes to maintain a high percentage rate in this area, factors such as needing to coordinate with other departments besides Zoning Enforcement may make the maintenance of the 100 percent rate difficult.

The dollar recovery rate on collection suits is based on delinquencies that are referred by the Department of Tax Administration to the Office of the County Attorney's target component and the amount recovered. Beginning in FY 2002, the collection rate factored out bankruptcy referrals and collections and included exonerations. In addition, bankruptcy cases in FY 2003 were tracked in the new case management system for the first time, and, along with data conversion, account for the large increase in litigation closures in that fiscal year. In FY 2003, the collection rate was 85 percent, which exceeded the objective of 63 percent. A large portion of this rise is also due to the high dollar value amounts of several bankruptcy accounts. For example, the top two bankruptcy BPOL/BPP collections totaled \$1.38 million, and the top two bankruptcy BPOL/BPP referrals totaled near \$600,000. The Office of the County Attorney does not expect the dollar recovery rate to be as high in FY 2004 and FY 2005 since more accounts with smaller dollar values are anticipated to be resolved. The Office will, however, strive to meet its goal of a 63 percent collection rate.

The response time to all requests for legal opinions and advice is based on responses to requests from the Board of Supervisors, other boards, authorities or commissions, the County Executive, and County departments. The percentage of advisory responses meeting timeliness standards was 84 percent overall in FY 2003. The Office of the County Attorney will place a greater emphasis on providing legal opinions within the established timeframe in FY 2005, with the objective of improving response times.